

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

BARRY MAY

§

VS.

§

CIVIL ACTION NO. 1:06cv143

UNITED STATES OF AMERICA

§

MEMORANDUM OPINION

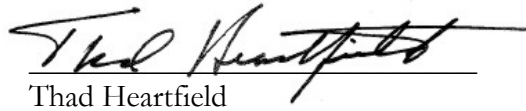
Barry May, proceeding *pro se*, brings this Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255. Movant challenges a 1999 conviction for conspiring to possess a controlled substance. The court previously dismissed four of movant's five grounds for review as barred by the applicable statute of limitations. In his remaining ground for review, movant asserts he received ineffective assistance of counsel because his attorney failed to request a downward adjustment of his sentence pursuant to Section 5G1.3(b) of the United States Sentencing Guidelines. He states that if this action had been taken, he would have received credit towards his sentence for time spent in jail prior to sentencing.

In response to a motion filed in movant's criminal case, the court has entered an order reducing his sentence pursuant to Section 5G1.3(b) of the Sentencing Guidelines. Movant's sentence

was reduced by 13 months and 16 days, the amount of time movant spent in jail prior to sentencing.

As a result of the order entered in his criminal case, movant has received the relief sought in his remaining ground for review. This motion to vacate, set aside or correct sentence will therefore be dismissed as moot. An appropriate Final Judgment shall be entered.

**SIGNED** this the **8** day of **February, 2008**.

  
Thad Heartfield  
United States District Judge